

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS



EXECUTIVE DIRECTOR
LaSharn Hughes

MEDICAL DIRECTOR
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COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

NOTICE OF INTENT TO AMEND AND ADOPT RULES

TO ALL INTERESTED PARTIES:

Notice is hereby given by the Composite State Board of Medical Examiners ("Board") that it intends to amend Rules 360-5-.06, entitled "Renewal of Physician's Assistant License. Amended," and 360-5-.10, entitled "Continuing Education Requirements. Amended," of Chapter 360-5, entitled "Physician's Assistant." Exact copies of the proposed new rules are attached to this Notice.

This notice, together with an exact copy of the proposed rules and a synopsis of the proposed rules are being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the proposed rules and a synopsis of the proposed rules may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except official State holidays, at the office of the Composite State Board of Medical Examiners, 2 Peachtree Street, N.W., 36th Floor, Atlanta, Georgia 30303.

Any interested person who will be affected by these rules may present his or her comments to the Board no later than April 20, 2006 or make comments at the public hearing. Comments may be directed to Diane Atkinson, Composite State Board of Medical Examiners, 2 Peachtree Street, NW, Atlanta, Georgia 30303-3465 or may be received by the Board by e-mail at matkinson@dch.state.ga.us

A public hearing is scheduled to begin at 9:05 a.m. on May 4, 2006 at the 36th Floor Board Room, 2 Peachtree Street, N.W., Atlanta, Georgia 30303, to provide the public an opportunity to comment upon and provide input into the proposed rules.

The Board voted to adopt this Notice of Intent on November 4, 2005 and intends to adopt the attached rules at its meeting on May 4, 2006, after the conclusion of the public hearing, at the 36th Floor Board Room, No. 2 Peachtree Street, NW, Atlanta, GA 30303.

The authority for promulgation of these rules is O. C. G. A. §§ 43-1-4, 43-1-7, 43-1-25, 43-34-3, 43-1-19, 43-34-24, 43-34-24.1, 43-34-103, 43-34-108 and the specific statutes cited in the proposed rules. This Notice is adopted and posted in compliance with O.C. G.A. § 50-13-4 of the Georgia Administrative Procedures Act. A synopsis of the proposed rules and an economic impact statement are attached to this Notice.

Date: 3/29/06

Signed: [Signature]

LaSharn Hughes

Executive Director

Composite State Board of Medical Examiners

ECONOMIC IMPACT AND SYNOPSIS FOR
AMENDMENT TO CHAPTER 360-5
PHYSICIAN'S ASSISTANTS

ECONOMIC IMPACT:

The attached rule is promulgated under the authority of the Medical Practice Act and the Physician's Assistant Act, Title 43, Chapter 34. The Composite State Board of Medical Examiners licenses and regulates nine professions. The formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of Article 2 and 4 of Chapter 34, of the Official Code of Georgia Annotated. Additionally, it is not legal or feasible to meet the objectives of Articles 2 and 4 of Chapter 34 of the Official Code of Georgia Annotated to adopt or implement differing actions for businesses as listed at O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D).

RULE SYNOPSIS:

360-5-.06 Renewal of Physician's Assistant License. Amended.

Purpose:

The purposes of the proposed amendments are to provide that physician's assistants licenses will expire on and must be renewed prior to the last day of the month of the applicant's birth; to provide for waiver of continuing education requirements for the 2007-2008 biennium to facilitate birth month renewals; to provide eligibility requirements for renewal, to provide a penalty for late renewal; to provide that licenses that are not renewed within 3 months of the expiration date will be revoked for failure to renew and to clarify that the holder of an expired license may not practice as a physician's assistant until such time as the Board has approved his or her application for renewal or reinstatement.

Main Features:

Paragraph (1) of Rule 360-5-.06, entitled "Renewal of Physician's Assistant License" provides that said licenses will expire on and must be renewed prior to the last day of the month of the applicant's birth. Applicants who are approved for renewal of their physician's assistant licenses that expire on December 31, 2006 will be issued a license that will be set to expire between January 31, 2008 and December 31, 2008. The amendment to paragraph (1) further provides for waiver of continuing education requirements during the 2007-2008 biennium. Paragraph (2) provides for courtesy notice of renewal and that deposit of the renewal application fee by the Board does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled. Paragraph (3) provides eligibility requirements for renewal. Paragraph (4) provides for a penalty for late renewal, revocation for failure to renew with 3 months of the expiration date. Paragraph (5) provides that the holder of an expired license shall not

practice as a physician's assistant until such time as the Board approves his or her renewal application or application for reinstatement.

RULE SYNOPSIS:

360-5-.10 Continuing Education Requirements. Amended.

Purpose: The purpose of the proposed amendments are to provide that 10 of the 40 hours of continuing medical education must be directly related to the specialty of the physician's assistant's Board approved primary supervising physician; that physician's assistants seeking an exemption to the continuing education requirements provide a written request and documentation supporting eligibility for such an exemption and that said request be submitted not less than 60 days prior to the expiration of the license; to provide for waiver of the continuing education requirements for the 2007-2008 biennium; to provide for random audits of renewal applications for compliance with continuing education requirements; to provide that an applicant who has not complied with continuing education requirements prior to renewal is not eligible to renew and that continuing education hours used to satisfy a deficiency may not be used for purposes of renewal for the next biennium.

Main Features: The amendment to paragraph (1) requires that, effective with the 2009-2010 biennium, at least 10 hours of continuing medical education obtained by a physician's assistant must be directly related to the specialty of the physician's assistant's Board approved primary supervising physician. The amendment to paragraph 1(c) requires physician's assistants to submit to the Board requests for exemptions due to cases of hardship, disability, illness, service in the United States Congress, military service or other circumstances as the Board deems appropriate at least 60 days prior to expiration of the physician's assistant's license. The amendment to paragraph (3) provides for birth month renewals and waiver of the continuing education requirements for the 2007-2008 biennium. Paragraph (5) provides for random audits of renewal applications to determine compliance with continuing education requirements. Paragraph (6) provides that an applicant must satisfy the continuing education requirements to be eligible for renewal, an applicant may late renew during the 3 months following the expiration of the license and that the licenses that are not renewed within 3 months following the expiration date shall be revoked for failure to renew. Paragraph (7) indicates that hours used to satisfy a deficiency may not be used for purposes of renewal for the next biennium.

RULES
OF
COMPOSITE STATE BOARD OF MEDICAL EXAMINERS
CHAPTER 360-5
PHYSICIAN'S ASSISTANTS

360-5-.06 Renewal of Physician's Assistant License. Amended.
360-5-.10 Continuing Education Requirements. Amended.

360-5-.06 Renewal of Physician's Assistant License. Amended.

(1) All Physician's Assistant licenses must be renewed biennially. October through December of every even-numbered year. The renewal fee must be paid prior to December 31st of the renewal year. ~~Otherwise such license shall become null and void. The licenses may only be renewed upon payment of the penalty for late renewal.~~ Effective January 1, 2007, applicants who are approved for renewal will be issued a license that will be set to expire between January 31, 2008 and December 31, 2008. The license will expire on the last day of the month in which the applicant's birthday falls. The application fee will be prorated, in accordance with a fee schedule established by the Board, for those whose licenses are renewed for less than a two-year period during the 2008-2009 biennium. Continuing education requirements will be waived for the 2008-2009 biennium. Thereafter, each succeeding license must be renewed biennially by the last day of the month in which the applicant's birthday falls and the licensee must establish satisfaction of Board-approved continuing education requirements to be eligible for renewal.

~~(2) Repealed.~~ Approximately 60 days prior to the expiration date, the Board may as a courtesy, mail a notice for license renewal to the last address on file in the Board's records to every person holding a current license. Failure to receive such notification shall not relieve the licensee of the obligation to renew and pay the required fee prior to the expiration date of the license. Deposit of the renewal fee by the Board does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled.

(3) To be eligible for renewal,

(a) licensees must answer questions on their biennial renewal forms which establish satisfaction of Board approved continuing education requirements or eligibility for waiver or variance pursuant to Rule 360-5-.10 and

(b) which establish that the licensee continues to perform medical tasks under the direction and supervision of a Board-approved primary supervising physician.

(4) Failure to renew a license by the designated expiration date shall result in a penalty for late renewal as required by the Board. Licenses that are not renewed within 3 months of expiration shall be revoked for failure to renew. In order to reinstate a license to practice as a physician's assistant, the Board must receive a completed application for utilization of the physician's assistant submitted by a licensed physician who will be responsible for the performance of the physician's assistant and a reinstatement fee. The proposed physician's assistant must be able to demonstrate to the satisfaction of the Board that he or she has maintained current knowledge, skill and proficiency in the health care area related to the job description as required by O.C.G.A.

§ 43-34-103 and that he or she is mentally and physically able to practice with reasonable skill and safety. Reinstatement of the license authorizing the physician's assistant to perform medical tasks under the direction and supervision of the applying physician is within the discretion of the Board.

(5) The holder of an expired license to practice as a physician's assistant shall not practice as a physician's assistant or represent him or herself as a physician's assistant until such time as the Board has approved his or her application for renewal or reinstatement.

Authority: O.C.G.A. § 43-1-4, 43-1-7, 43-1-19(l), 43-1-25, 43-34-3, 43-34-24, 43-34-24.1, 43-34-103, 43-34-108.

360-5-.10 Continuing Education Requirements. Amended.

(1) Physician's Assistants licensed to practice pursuant to O.C.G.A. 43-34-101 shall complete Board approved continuing medical education of not less than (40) hours biennially. Effective with the 2009-2010 biennium, at least ten (10) hours shall be directly related to the specialty of the Board approved primary supervising physician. Physician's Assistants who are authorized to carry out prescription drug orders shall be required as a part of the number of hours of continuing medical education required herein, to complete a minimum of (3) hours in practice specific pharmaceuticals in which the Physician's Assistant has prescription order privileges. This rule shall not apply to the following persons:

- (a) Physician's Assistants who are initially licensed by the Board and who have not renewed their license for the first time;
- (b) Physician's Assistants whose licenses are not active, such as those who are inactive or revoked. Physician's Assistants who are suspended or in some way disciplined by the Board must meet the requirement unless otherwise stipulated by Board Order;
- (c) Physician's assistants specifically exempted from this requirement by Board Order due to cases of hardship, disability, illness, service in the United States Congress, military service or other circumstances as the Board deems appropriate if supported by adequate documentation acceptable to the Board.

1. Physician's assistants seeking such an exemption must submit a written request and documentation to support their eligibility for such an exemption.

2. Said request for an exemption should be submitted to the Board not less than 60 days prior to the expiration of the license to receive a determination from the Board as to whether an exemption would be granted.

(2) The Board accepts the A.M.A. (American Medical Association) Category 1, the A.O.A. (American Osteopathic Association) Category 1, A.A.A.A. (American Academy

of Anesthesiologist's Assistants) Category 1, and the A.A.P.A. (American Academy of Physician's Assistants) Category 1 credit as meeting its requirement for Board approval. It is the responsibility of the physician's assistant to verify approval with the source of the program, not with the Board, and the physician's assistant should verify approval before taking the course.

(3) Physician's assistants who must meet the requirement of this Chapter must document the completion of Board approved continuing education of not less than 40 hours from January 1 of odd numbered years and ending December 31 of even numbered years. This time period constitutes the biennial renewal cycle pursuant to Rule 360-5-.06(1). As provided in Rules 360-5-.06, applicants who are approved for renewal of their licenses that expire on December 31, 2006, will be issued a license that will be set to expire between January 31, 2008 and December 31, 2008. The license will expire on the last day of the month in which the applicant's birthday falls. Continuing education requirements will be waived for the 2007-2008 biennium. Thereafter, each succeeding license must be renewed biennially by the last day of the month in which the applicant's birthday falls and the licensee must establish satisfaction of Board-approved continuing education requirements during the biennial renewal cycle to be eligible for renewal.

(4) Each licensed Physician's Assistant who must meet these requirements must maintain records of attendance and supporting documents for continuing education for a period of 5 years from the date of attendance. At a minimum, the following must be kept: (a) Name of Provider; (b) Date of completion; (c) Evidence of A.M.A. Category 1 credit; A.O.A. Category 1 credit; A.A.P.A. Category 1 credit; or A.A.A.A. Category 1 credit..

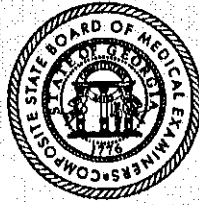
(5) The Board will audit a fixed percentage of randomly selected renewal applications to monitor compliance with the continuing education requirements. Any licensee so audited shall be required to furnish documentation of compliance as provided in paragraph (4) of this rule. Any licensee so audited that has been found to be out of compliance with the Board's continuing requirements may be subject to disciplinary action.

(6) If the licensee has not complied with the continuing education requirement by the expiration of the license, his/her license shall not be renewed and the licensee shall not practice as a physician's assistant. A licensee may late renew during the three (3) months following the expiration date of his or her license by presenting satisfactory evidence to the Board of completion of the requisite number of hours of Board approved continuing education and the late renewal fee. Licenses that are not renewed within three (3) months following the expiration date of the license shall be revoked for failure to renew. In order to obtain a valid license after revocation for failure to renew, an applicant must apply for reinstatement in accordance with Rule 360-5-.06(4).

(7) Continuing education hours that are used to satisfy a deficiency for the previous biennial renewal may not be used for purposes of renewal for the next biennium.

Authority O.C.G.A. Secs. 43-1-4, 43-34-3, 43-1-19, 43-34-24.1, 43-34-103, 43-34-108.

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COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

NOTICE OF INTENT TO AMEND AND ADOPT RULES

TO ALL INTERESTED PARTIES:

Notice is hereby given by the Composite State Board of Medical Examiners that it intends to amend Chapter 360-26, entitled "Briefs and Post Hearing Procedure," by adopting new rules 360-26-.04, entitled "Review of Initial Decision," 360-26-.05, entitled "Rehearing," and 360-26-.06, entitled "Appeals." An exact copy of the proposed amendment is attached to this Notice.

This notice, together with an exact copy of the proposed rule and a synopsis of the proposed rule are being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the proposed rules and a synopsis of the proposed rules may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except official State holidays, at the office of the Composite State Board of Medical Examiners, 2 Peachtree Street, N.W., 36th Floor, Atlanta, Georgia 30303.

Any interested person who will be affected by these rules may present his or her comments to the Board no later than April 20, 2006 or make comments at the public hearing. Comments may be directed to Diane Atkinson, Composite State Board of Medical Examiners, 2 Peachtree Street, NW, Atlanta, Georgia 30303-3465 or may be received by the Board by e-mail at matkinson@dch.state.ga.us.

A public hearing is scheduled to begin at 9:00 a.m., on May 4, 2006 at the 36th Floor Board Room, 2 Peachtree Street, Atlanta, Georgia 30303, to provide the public an opportunity to comment upon and provide input into the proposed rules.

The Board voted to adopt this Notice of Intent on December 1, 2005 and intends to adopt the attached rules at its meeting on May 4, 2006, after the conclusion of the public hearing, at the 36th Floor Board Room, 2 Peachtree Street, Atlanta, GA 30303.

The authority for promulgation of these rules is O. C. G. A. §§ 43-34-24(c), 50-13-3 and the specific statutes cited in the proposed rules. This Notice is adopted and posted in compliance with O.C. G.A. § 50-13-4 of the Georgia Administrative Procedures Act. A synopsis of the proposed rules and an economic impact statement are attached to this Notice.

Date: 3/23/06

Signed: [Signature]

LaSharn Hughes

Executive Director

Composite State Board of Medical Examiners

**ECONOMIC IMPACT AND SYNOPSIS FOR
AMENDMENTS TO CHAPTER 360-26
BRIEFS AND POST HEARING PROCEDURES**

ECONOMIC IMPACT:

The attached rules are promulgated under the authority of the Medical Practice Act, Title 43, Chapter 34 and the Georgia Administrative Procedure Act, Title 50, Chapter 13 of the Official Code of Georgia Annotated. The Composite State Board of Medical Examiners licenses and regulates nine professions. The formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of Chapter 34 of Title 43 of the Official Code of Georgia Annotated. Additionally, it is not legal or feasible to meet the objectives of Chapter 34 of Title 43 of the Official Code of Georgia Annotated to adopt or implement differing actions for businesses listed at O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D).

Rules 360-26-.04 Review of Initial Decision

360-26-.05 Rehearing

360-26-.06 Appeals

Purpose: The purpose of the proposed new rules is to provide post hearing procedures regarding the review of an initial decision, request for rehearing of a final decision and appeal of a final decision.

Main Features: Rule 360-26-.04 provides procedures for seeking review of an initial decision pursuant to O.C.G.A. § 50-13-17(a) and for conducting the review. Rule 360-26-.05 provides the procedures for filing a motion for rehearing of a final decision. Rule 360-26-.06 indicates the procedure for filing an appeal of a final decision.

Briefs and Post Hearing Procedures

Chapter 360-26

**RULES
OF
COMPOSITE STATE BOARD OF MEDICAL EXAMINERS**

**CHAPTER 360-26
BRIEFS AND POST HEARING PROCEDURE**

360-26-.04 Review of Initial Decision

360-26-.05 Rehearing

360-26-.06 Appeals

360-26-.04 Review of Initial Decision.

(1) Either the Respondent or the Board may seek review of the initial decision of the hearing officer pursuant to O.C.G.A. 50-13-17(a). If the Respondent files a timely motion for review of the initial decision of the hearing officer, the Respondent may include therein a statement of the reasons for seeking review and alleged errors made by the hearing officer in the initial decision. If the Board files a timely order for review of the initial decision on its own motion, it may include in its order the issues to be considered by the Board at the review hearing.

(2) Upon the filing of a timely motion by Respondent seeking review of the initial decision of the hearing officer, or upon the filing of a timely order for review of an initial decision by the Board on its own motion, notice of the date and time for the review shall be served on Respondent or counsel for Respondent and counsel for the agency.

(3) The Board may appoint a hearing officer for review, other than the hearing officer who entered the initial decision, who shall preside over the review proceedings and control the conduct of the review hearing. In acting as presiding officer, the hearing officer for review shall assist the Board in its ruling on procedural and evidentiary questions that arise during the course of the review. At the direction of the Board, the hearing officer for review shall draft the final decision for the Board.

(4) On review, the Board shall have all the powers it would have in making the initial decision, and in its discretion shall have the power to take additional testimony or remand the case to the original hearing officer for such purpose, as provided in the Administrative Procedure Act, O.C.G.A. 50-13-17 and in accordance with this Rule. Motions, including motions to present additional evidence, shall be filed in accordance with the time periods for such motions set forth in the Order scheduling the review.

(a) Motions to present additional evidence or to remand the case to the original hearing officer for such purpose shall be granted only if the additional evidence is material and there was good cause for failing to present such evidence before the original hearing officer. All motions, including motions for the presentation of additional evidence, shall be ruled on by the Board, prior to oral arguments during the review hearing.

(5) Oral argument up to 30 minutes per side is permitted in the review hearing. Additional time for argument must be requested in writing and docketed at least fourteen (14) days before the date set for the review hearing.

(6) Once the review hearing is concluded, the Board shall deliberate as to the final decision. Neither the hearing officer for review nor the parties nor their counsel shall be present during or participate in the deliberations or voting on the final decision. Provided, however, that during the course of the deliberations the Board may seek or obtain legal advice of its counsel or make an inquiry on the record concerning either procedure or the merits of the case in the presence of all parties.

(a) At the conclusion of the deliberations, the vote and decision of the Board shall be announced in open session, unless the sanction imposed by the decision is made confidential by statute, in which case it shall be announced in camera to the Respondent and counsel for the parties. The Board may take the matter under advisement and continue the deliberations until a date certain, if deemed necessary, due to the Board's agenda or the complexity of the issues.

Authority: O.C.G.A. Secs. 43-34-24(c); 50-13-3(a)(2), 50-13-17, 50-13-41.

360-26-.05 Rehearing. Any party may file a motion for rehearing of a final decision of the Board within ten (10) days after the date of actual service of such final decision on the Respondent or Respondent's counsel. Such motion shall be in accordance with Rule 360-19-.01 and, in addition, shall include a statement of all matters alleged to have been erroneously decided and, if applicable, a statement as to any newly discovered matters or circumstances that have arisen subsequent to the final decision. The filing of said motion shall not operate as a stay of the final decision of the agency unless so ordered by the Board.

Authority: OCGA Sec. 43-34-24(c), 50-13-3(a)(2)

360-26-.06 Appeals. All appeals shall be filed in accordance with the Georgia Administrative Procedure Act and must be filed in the superior court of Fulton County, the court of the domicile of the Board.

Authority O.C.G.A. Secs. 50-13-3(a)(2), 43-34-24(c), 43-34-24.1 (i), 43-1-19(f), 43-1-20.1(c)-3(a).